

REMARKS

The present Amendment is submitted under 37 CFR 1.114 in order to support the request for continued examination (RCE) filed concurrently herewith, and to respond in substance to the final Office Action dated November 24, 2008, which set a three-month period for response. Reconsideration of the application in view of the claims amendments shown above and the following remarks is respectfully requested.

Claim 1 is amended to address the claim objection set forth at paragraph 1 of the final Office Action, to incorporate the subject matter of claims 7 and 8, now cancelled without prejudice or disclaimer of subject matter, to more clearly define certain claimed features and to address the rejections under 35 USC §112, second paragraph. No new matter is entered hereby.

In more detail, claim 1 is amended such that the "circumferential collar" of the at least one protruding reinforcing element is now defined as

embodied in a form of a lateral stop surface (12) configured as two opposing longitudinal sides of a circumferential collar (6) that extends over at least three peripheral sides of the base plate, where the peripheral side connecting the two opposing longitudinal sides comprises a first connecting element (18).

Additional collar (21) is now defined as

surrounding an opening (22) for a saw blade and comprising a second connecting element (18).

As amended, the claim 1 base plate's attaching elements (14) are now defined as a row of attaching elements (14), and the base plate is defined to further include

projections (8) and a threaded dome (9) for guiding and positioning a parallel cutting guide (5) and/or the first and second connecting elements (18) for an angle adjustment and/or a guide channel (10) are integrated into the base plate (1), wherein the connecting elements (18) have bores (11) for supporting a pivot pin and defining a rotation axis for an angle adjustment of a saw blade (19).

For that matter, applicant respectfully asserts that claim 1's use of the term "circumferential" is as an adjective to imply that the collar (6) is peripheral. After amendment, claim 1 identifies that the collar, while circumferential, extends only along three sides, correlating to the embodiment of Fig. 3. As such, applicant believes claim 1 complies with the second paragraph of section 112.

Applicant further asserts, however, that while not reflected in the claim 1 (Fig. 3) embodiment, applicant's invention may include a circumferential collar that is contiguous about all four sides of the plate.

In addition, claim 5 is amended to address its dependency, and the language of claims 7 and 8 now clearly identifies connecting elements (18) as the same structure as disclosed in claim 1. Applicant, therefore, respectfully requests withdrawal of the rejection of claims 1-3, 5, 6 and 9 under 35 USC §112, second paragraph.

Claims 1-3 and 5, 6 and 9 remain pending hereinafter, where claim 1 is the sole independent claim.

Turning now to the art rejections, claims 1-3 and 5-9 also are rejected under 35 U.S.C. 103(a) over U.S. patent No. 5,678,314 to Braunbach, et al. (Braunbach) in view design patent No. D326,399 to Fushiya, et al. (Fushiya) and further in view of EP 1428646.

In response, applicant respectfully asserts that independent claim 1 as amended is patentable under 35 USC §103(a) over Braunbach in view of Fushiya and EP 1428636 for at least the following reasons.

With respect to Braunbach, while the Examiner asserts that element 975 is a second connecting element as claimed, applicant does not agree. Braunbach's element 975 is not "configured as an additional collar (21) surrounding an opening (22) for a saw blade and comprising a second connecting element (18)," as claimed. No collar is evident. Moreover, Braunbach's element 975 is not arranged for a saw blade, nor comprises one of "bore (11) for supporting a pivot pin and defining a rotation axis for an angle adjustment of a saw blade (19)," as claimed.

Applicant's independent claim 1 as amended requires two connecting elements that are opposed to each other so that the bores (11) define a rotational axis for an angle adjustment. While Braunbach's element 975 does include a bore, the surface comprising the bore is parallel to the plate, and cannot accommodate a pivot pin extending from a first connecting element such as that depicted by Fushiya.

For that matter, while Fushiya may teach a collar with a first connecting element, connecting elements for an angle adjustment and connecting elements with bores, as mentioned, Fushiya's connecting element as seen in Fig. 1 could not connect to a second connecting element, such as Braunbach's connecting element 975. Fushiya and Braunbach do not have bores for supporting a pivot pin to define a rotation axis, and would need to be substantially modified, if such modification were possible at all, in order to perform the function of the first and second connecting elements (18), as claimed.

That is, the present invention can not be derived from the combination of the references, since any combination would not lead to the applicant's invention. Instead, the references have to be modified, and it is known that in order to arrive at a claimed invention by modifying the references cited art must itself contain a suggestion for such a modification. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision In re Randol and Redford, 165 USPQ 586, that prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

For that matter, even if the could be modified and combined, it is respectfully submitted that none of Braunbach, Fushiya nor EP 1428636 disclose any hint or suggestion for their combination, and thus it would not have been obvious for one skilled in the art to combine them. This principle is affirmed by

the CAFC in In re Fritch, 23 USPQ 2d, 1780, 1784 (Fed. Cir. 1992), which stated that

It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious ... "one can not use inside reconstruction to pick and choice among isolated disclosures in the prior art to depreciate the claimed invention"

In view of the above presented remarks and amendments it is believed to be clear that claim 1 is patentably distinguished over the art and should be allowed. As for dependent claims 2, 3, 5, 6 and 9, these claims depend from claim 1 and share the allowable features. Hence, applicant respectfully requests withdrawal of the rejection of claims 1, 2, 3, 5, 6 and 9 (the pending claims) under 35 USC §112, first paragraph over Braunbach, in view of Fushiya and further in view of EP 1428636, and allowance of the present application.

Accordingly, the application is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application in condition for allowance.

Respectfully submitted,

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